An Bille um Pá Íosta Náisiúnta (An Coimisiún um Pá Íseal), 2015
National Minimum Wage (Low Pay Commission) Bill 2015

Mar a leasaíodh i gCoiste
As amended in Committee
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SCHEDULE

[No. 42a of 2015]
COMPANIES ACT 1990 (NO. 33)
ETHICS IN PUBLIC OFFICE ACT 1995 (NO. 22)
EUROPEAN PARLIAMENT ELECTIONS ACT 1997 (NO. 2)
NATIONAL MINIMUM WAGE ACT 2000 (NO. 5)
AN BILLE UM PÁ ÍOSTA NÁISIÚNTA (AN COIMISIÚN UM PÁ ÍSEAL), 2015
NATIONAL MINIMUM WAGE (LOW PAY COMMISSION) BILL 2015

Bill
entitled
An Act to amend the National Minimum Wage Act 2000 to provide for the establishment of a body to be known in the Irish language as An Coimisiún um Pá Íseal or in the English language as the Low Pay Commission to advise on setting a national minimum wage; and to provide for related matters.

Be it enacted by the Oireachtas as follows:

Definition
1. In this Act “Principal Act” means the National Minimum Wage Act 2000.

Amendment of section 2 of Principal Act
2. Section 2 of the Principal Act is amended, in subsection (1), by—

(a) the insertion of the following definitions:

“‘Act of 2015’ means the National Minimum Wage (Low Pay Commission) Act 2015;

‘Commission’ means the Low Pay Commission established under section 10A (inserted by section 3 of the Act of 2015);”,

and

(b) the substitution of the following definition for the definition of “national minimum hourly rate of pay”:

“‘national minimum hourly rate of pay’ means the rate of pay declared by order of the Minister under section 10D (inserted by section 6 of the Act of 2015);”.

Establishment of Low Pay Commission
3. The Principal Act is amended by the insertion of the following section after section 10 but in Part 3:

“10A.(1) There is hereby established a body to be known in the Irish language as An Coimisiún um Pá Íseal or, in the English language, as the Low Pay Commission to perform the functions conferred on it by 10C
(inserted by section 5 of the Act of 2015).

(2) Subject to this Act, the Commission shall be independent in the performance of its functions.

(3) The provisions of Schedule 2 (inserted by section 8 of the Act of 2015) shall apply to the Commission.”.

Duty of Commission

4. The Principal Act is amended by the insertion of the following section after section 10A:

“10B. The Commission in the performance of the functions assigned to it by Section 10C shall make recommendations to the Minister regarding the national minimum hourly rate of pay that—

(a) is designed to assist as many low paid workers as is reasonably practicable,

(b) is set at a rate that is both fair and sustainable,

(c) where adjustment is appropriate, is adjusted incrementally, and

(d) over time, is progressively increased,

without creating significant adverse consequences for employment or competitiveness.”.

Functions of Commission

5. The Principal Act is amended by the insertion of the following section after section 10B:

“10C.(1) Without prejudice to the generality of section 10B, the Commission shall once each year—

(a) examine the national minimum hourly rate of pay, and

(b) make a recommendation to the Minister respecting the national minimum hourly rate of pay.

(2) (a) A recommendation under this section shall be accompanied by a report on the matters considered when making the recommendation.

(b) A recommendation and report under this section shall be furnished to the Minister on or before 15 July of the year to which the examination relates.

(3) When making a recommendation under subsection (1)(b), the Commission shall have regard to—

(a) changes in earnings during the relevant period,

(b) changes in currency exchange rates during the relevant period,

(c) changes in income distribution during the relevant period,

(d) whether during the relevant period—
(i) unemployment has been increasing or decreasing,
(ii) employment has been increasing or decreasing, and
(iii) productivity has been increasing or decreasing,
both generally and in the sectors most affected by the making of an order under section 10D (inserted by section 6 of the Act of 2015),
(e) international comparisons, particularly with Great Britain and Northern Ireland,
(f) the need for job creation, and
(g) the likely effect that any proposed order will have on—
   (i) levels of employment and unemployment,
   (ii) the cost of living, and
   (iii) national competitiveness.

(4) (a) If so requested by the Minister, the Commission shall examine and report its views and recommendations on such matters, related generally to the functions of the Commission under this Act, as are specified by the Minister in that request.
   (b) A request under paragraph (a) shall—
      (i) be made not later than 2 months after this Act comes into operation and, thereafter, not later than 2 months after the beginning of each year,
      (ii) be part of that year’s work programme of the Commission, and
      (iii) specify the period within which the Commission shall report its views and recommendations to the Minister.
   (c) The Minister may extend the period specified under paragraph (b) (iii).

(5) The Commission shall once every 3 years report generally on the operation of this Act and, in particular, on the impact of any orders made under section 10D on low pay, income distribution and employment costs.

(6) When preparing a report under this section the Commission shall consult with such persons, including representatives of employers and employees, as it thinks appropriate.

(7) The Commission shall have all such powers as are necessary or expedient for the performance of its functions.

(8) In this section ‘relevant period’ means—
   (a) in the case of the first report furnished under subsection (2)(b), the period since the most recent making of an order under section 11 of the Principal Act, or
(b) in the case of a second or subsequent report furnished under subsection (2)(b), the period since the most recent making of an order under section 10D (inserted by section 6 of the Act of 2015).”.

National minimum hourly rate of pay

6. The Principal Act is amended by the insertion of the following section after section 10C:

"10D.(1) Within 3 months of the date of receipt of a recommendation and report submitted to him or her under section 10C(2) and having considered the report and recommendation and having had regard to section 10C(3), the Minister shall—

(a) by order declare a national minimum hourly rate of pay—

(i) in the terms recommended by the Commission, or

(ii) in other terms,

or

(b) decline to make such an order.

(2) Where the Minister—

(a) by order declares a national minimum hourly rate of pay in terms other than terms recommended by the Commission, or

(b) declines to make an order declaring a national minimum hourly rate of pay,

the Minister shall prepare and lay before both Houses of the Oireachtas a statement of his or her reasons for so doing.

(3) The national minimum hourly rate of pay declared by order under this section may include an allowance in respect of board and lodgings, board only or lodgings only at such rates as are specified in the order.

(4) Where the Commission fails to make a recommendation or submit the report required in accordance with section 10C(2)(b) the Minister may, by order, having had regard to section 10C(3), declare a national minimum hourly rate of pay.”.

Funding and resources

7. The Principal Act is amended by the insertion of the following section after section 10D:

"10E.(1) The Minister shall advance to the Commission out of moneys provided by the Oireachtas such amount or amounts as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine for the purposes of expenditure by the Commission in the performance of its functions.

(2) The Minister shall make available to the Commission such officers of the Minister and reasonable facilities and services as the Minister,
Amendment of Principal Act

8. The Principal Act is amended—
   (a) in section 2—
      (i) in subsection (1), in the definition of “pay”, by the substitution of “Schedule 1” for “the Schedule”, and
      (ii) in subsection (3), by the substitution of “a Schedule” for “the Schedule” in each place where it occurs,
   (b) in section 19—
      (i) by the substitution of “Schedule 1” for “Schedule” in each place where it occurs, and
      (ii) in subsection (5), by the substitution of “section 10D” for “section 11”,
   (c) in section 23(4)(a), by the substitution of “Schedule 1” for “the Schedule”,
   (d) in the Schedule, by the substitution of “Schedule 1” for “Schedule” in the first place it occurs, and
   (e) by the insertion of the text set out in the Schedule after Schedule 1 (amended by paragraph (d)).

Repeals

9. Sections 11, 12, and 13 of the Principal Act are repealed.

Short title, collective citation and construction

10. (1) This Act may be cited as the National Minimum Wage (Low Pay Commission) Act 2015.

     (2) This Act and the National Minimum Wage Act 2000 may be cited together as the National Minimum Wage Acts 2000 and 2015 and shall be construed together as one.
Membership

1. (1) The Commission shall consist of a chairperson and 8 ordinary members, each appointed by the Minister.

(2) Of the ordinary members—

(a) 3 shall be appointed from among persons who, in the opinion of the Minister, have an understanding of the interests of low paid workers, very good knowledge and experience of working on behalf of workers’ interests or representing workers, particularly low paid workers or a proven track record in an advocacy or representational role on behalf of low paid workers,

(b) 3 shall be appointed from among persons who, in the opinion of the Minister, have an understanding of the interests of employers, particularly small to medium-sized employers and those operating in traditionally low pay sectors, and who possess a good knowledge and understanding of the particular issues faced by Irish businesses, particularly in relation to labour costs, and competitiveness, and

(c) 2 members shall be appointed from among persons who, in the opinion of the Minister have particular knowledge or expertise in relation to some or all of the following: economics, labour market economics, statistics, and employment law and proven competence in analysing and evaluating economic research and statistical analysis.

(3) The Minister shall, in so far as is practicable, endeavour to ensure that among the members there is an equitable balance between men and women.

(4) Where there is a vacancy (however occasioned) in the membership of the Commission, the Minister shall, if it is reasonably practicable to do so, appoint a replacement before the end of the period of 6 months beginning on the day on which the vacancy arose.

Term of office

2. (1) The term of office of a member of the Commission is 3 years from the date of his or her appointment.

(2) A person may not be a member of the Commission for more than 2 consecutive terms of office but is otherwise eligible for
reappointment.

**Resignation and termination of office**

3. (1) A member of the Commission may at any time resign from office by letter addressed to the Minister and the resignation shall take effect on the date specified in the letter or the date the letter is received by the Minister, whichever is the later.

(2) The Minister may remove a member of the Commission from office if, in the opinion of the Minister—

(a) the member has become incapable through ill-health of effectively performing the functions of the office,

(b) the member has committed stated misbehaviour,

(c) the member has a conflict of interest of such significance that, in the opinion of the Minister, the member should cease to hold the office, or

(d) the removal of the member appears to be necessary for the effective performance by the Commission of its functions.

(3) A person shall be disqualified from holding and shall cease to hold office as a member of the Commission if he or she—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,

(d) is convicted of an offence involving fraud or dishonesty, or

(e) has a declaration under section 150 of the Companies Act 1990 made against him or her or is subject or is deemed to be subject to a disqualification order by virtue of Part VII of that Act.

(4) Where the Minister appoints a new member of the Commission because a member has died, resigned, been removed from office or become disqualified from holding office, the term of office of the new member shall be for a period of 3 years.

(5) Subject to such rules as the Commission may make regarding a quorum, the Commission may act despite one or more vacancies in its membership.

**Remuneration and other terms and conditions of office**

4. Each member of the Commission shall—

(a) hold office on such terms (other than the payment of remuneration and allowances for expenses) as the Minister
may determine, and

(b) be paid by the Minister such remuneration (if any) and allowances for expenses (if any) as the Minister with the consent of the Minister for Public Expenditure and Reform may determine.

Membership of Oireachtas, European Parliament or local authority

5. (1) Where a member of the Commission—

(a) is nominated as a candidate for election to either House of the Oireachtas or the European Parliament,

(b) is nominated as a member of Seanad Éireann,

(c) is elected as a member of either House of the Oireachtas or the European Parliament,

(d) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy, or

(e) becomes a member of a local authority,

he or she shall thereupon cease to be a member of the Commission.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in that House or who is a member of the European Parliament or of a local authority shall, while so entitled or such a member, be disqualified from becoming a member of the Commission.

Appearance before Oireachtas Committees

6. The chairperson of the Commission shall, whenever requested to do so, account for the performance of the functions of the Commission to a Committee of either House of the Oireachtas.

Procedure and quorum

7. Subject to this Act, the Commission shall regulate the procedures and business of the Commission, including the fixing of a quorum for meetings of the Commission.”.
BILLE

(mar a leasaidh i gCoiste)
dá ngairtear

Acht do leasú an Achta um Pá Íosta Náisiúnta, 2000 chun socrú a dhéanamh maidir le comhlacht a bhunú ar a dtabharfadh, sa Ghaeilge, an Coimisiún um Pá Íseal nó, sa Bhéarla, the Low Pay Commission chun comhairle a thabhairt maidir le pá iosta náisiúnta a shocrú; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Ordaidh ag Seanad Éireann a chlóbhualadh,
11 Meitheamh, 2015

BILLY

(as amended in Committee)
entitled

An Act to amend the National Minimum Wage Act 2000 to provide for the establishment of a body to be known in the Irish language as An Coimisiún um Pá Íseal or in the English language as the Low Pay Commission to advise on setting a national minimum wage; and to provide for related matters.

Ordered by Seanad Éireann to be printed,
11th June, 2015